THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.28169 OF 2005

DATED:2.1.2006

Between:

Ganji Namasiva Rao

…Petitioner

And

The Mandal Revenue Officer

Paravada Mandal,

Visakhapatnam District

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.28169 OF 2005

ORDER:

The petitioner was allegedly assigned land admeasuring Acs.5.00 in S.No.357/3 of Desapatrunipalem Village, by proceedings (D-form patta) dt.25.1.1993. The petitioner alleges that at the time of assignment, the land was not fit for cultivation and by dint of hard-work, the petitioner brought it into cultivation and raised cashew-nut trees and cultivating bazra and other grains. The respondent issued a show cause notice in form No.1 under Rule 3 of the A.P. Assigned Lands (Prohibition of Transfers) Rules, 1977 (for short, the Rules) calling upon the petitioner to show cause as to why the assignment should not be cancelled for violating the provisions of Section 3(2) of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. This notice is assailed in the Writ Petition.

It is now axiomatic that against show cause notice, a Writ Petition would not lie. However, Sri M.Murali Lincoln, learned counsel for the petitioner strenuously contends that under Rule 3(2) of the Rules notice is required to be given to transferee of the assigned the land. The notice issued to petitioner original assignee is without jurisdiction. I am afraid, the submission cannot be accepted.

As per Section 3(2) of the Act, any transfer by way of gift, sale, mortgage or otherwise of the assigned land by the assignee to third party is void. Section 3(5) of the Act, however, saves a situation where the transferee of assigned land himself/herself is a landless poor person in which event, it is not incumbent for the Mandal Revenue Officer to resume the land to the Government. In that view of the matter, the issue of notice to the assignee is also very much required to comply with the principles of nature justice. There is no infirmity in the action of the respondent in issuing impugned show cause notice. The petitioner is given liberty to submit explanation to the impugned show cause notice within a period of ten days from today. As and when such explanation is filed, the respondent shall consider the same and pass appropriate orders under Section 4 of the Act. In this Writ Petition, no relief can be granted to the petitioner.

The Writ Petition with the above observations and directions is accordingly dismissed.

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(V.V.S.RAO, J)

2.1.2006

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